

STEPHEN N. GOLDBERG (Bar No. 57122)
CELIA M. JACKSON (Bar No. 124508)
HELLER EHRMAN LLP
333 Bush Street
San Francisco, California 94104-2878
Telephone: (415) 772-6000
Facsimile: (415) 772-6268
stephen.goldberg@hellerehrman.com
celia.jackson@hellerehrman.com

Attorneys for Plaintiff
JAMES A. HARRIS

(Additional Appearances Noted On Signature Page)

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JAMES A. HARRIS,

Plaintiff,

v.

GULF INSURANCE COMPANY,

Defendant,

Case No.: C 01-4906 (CW)

**ORDER CONTINUING CASE
MANAGEMENT CONFERENCE**

Date: November 13, 2007

Time: 2:00 p.m.

Courtroom 2

The Honorable Claudia Wilken

MICHAEL J. STONE,

Plaintiff/Intervenor.

Plaintiff James A. Harris, Intervenor Michael J. Stone (together, "Plaintiffs"), and defendant Gulf Insurance Company respectfully submit this Joint Statement in connection with the upcoming Case Management Conference ("CMC"), currently scheduled for November 13, 2007, at 2:00 p.m.

This litigation was one of three related cases before the Court. The remaining two, *In re U.S. Aggregates, Inc. Securities Litigation*, Master File No. C-01-1688-CW, and *Moglia v. Harris*, No. C 04 2663 CW, were settled. This case dealt with the insurance

1 coverage issues posed by the U.S. Aggregates Securities Litigation.

2 This Court entered final judgment on September 28, 2005 on Counts I and II of
 3 Plaintiffs First Amended Complaint pursuant to Federal Rule of Civil Procedure 54(b).
 4 Those two counts raised the major coverage questions posed by the litigation. The Court
 5 stayed all proceedings with respect to the remaining two counts (breach of contract and bad
 6 faith) pending resolution of the appeal that Gulf indicated it would take from the judgment.¹
 7 The appeal was fully briefed by May 4, 2006. The Ninth Circuit heard oral argument on
 8 October 18, 2007.

9 Given the current status, the parties respectfully request that the scheduled CMC be
 10 vacated until disposition by the Court of Appeals. If the Court requests, the parties will
 11 provide the Court with periodic status reports as the Court may desire.

12 DATED: October 24, 2007

HELLER EHRMAN LLP

13 By: _____/s/

14 Stephen N. Goldberg

15 Attorneys for Plaintiff

16 JAMES A. HARRIS

17 DATED: October 24, 2007

JEFFER, MANGELS, BUTLER & MARMARO LLP

18 By: _____/s/

19 Julia J. Rider

20 Attorneys for Plaintiff/Intervenor

21 MICHAEL J. STONE

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 26 ¹ See the Court's Order Granting the Parties Joint Application for Judicial Resolution of
 27 Counts I and II of Plaintiffs' First Amended Complaint and Entering Judgment on Counts I and II
 28 of Plaintiffs' First Amended Complaint under Federal Rule of Civil Procedure 54(b), dated
 September 28, 2005.

1 DATED: October 24, 2007

TUCKER ELLIS & WEST LLP

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3 By: _____/s/

Alec Boyd

4 Attorneys for Defendant

5 GULF INSURANCE COMPANY

6 **ORDER**

7 IT IS HEREBY ORDERED THAT the Case Management Conference scheduled for
8 November 13, 2007, is hereby continued until February 19, 2008, at 2:00 p.m. An updated
9 Case Management Statement will be due one week prior to the conference.

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11 DATED: October 26, 2007



12 The Honorable Claudia Wilken
13 United States District Court
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